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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/608,715	06/23/2003	Jeffrey B. Kallevig	26.2.C94	6911

7590 08/17/2005

Fulbright & Jaworski, LLP
 80 South 8th Street
 Suite 2100
 Minneapolis, MN 55402

EXAMINER

PETRAVICK, MEREDITH C

ART UNIT	PAPER NUMBER
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3671

DATE MAILED: 08/17/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/608,715

Applicant(s)

KALLEVIG ET AL.

Examiner

Meredith C. Petravick

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 13 June 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-28 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-28 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 11/2/2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

DETAILED ACTION

Claim Rejections - 35 USC § 103

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 1-7, 10-11, 16-17, 20, 21, 23 and 25-28 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Pat. No. 4,055,036 to Kidd in view of U.S. Pat. No. 5,205,112 to Tillotson et al.

Kidd discloses a mower deck including:

- a cutting chamber (Fig. 4) with a top wall (Fig. 4), a front wall (Fig. 1), a plurality of side walls (Fig. 4) and a side discharge opening 123 next to chute 111)
- a plurality of cutting blades (21, 23)
- a plurality of flow control baffles including a first flow control baffle (101, 105, 109)

Kidd expressly suggests providing a movable baffle (i.e. the first flow control baffle in the claim) to open and close the side discharge opening (Column 4, lines 58-66) but does not disclose any details of the structure of the movable baffle.

Like Kidd, Tillotson et al. discloses a mower deck having a cutting chamber with an opening. Unlike Kidd, Tillotson et al. discloses a movable baffle (20) that opens and closes a discharge opening to control the flow of grass clippings. The baffle is selectively movable

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between a pair of orientations in the cutting chamber (Fig. 1 and 2). The first end of the baffle is proximate the side discharge opening and a second end is further within the cutting chamber.

Given the express suggestion in Kidd, it would have been obvious to one having ordinary skill in the art at the time the invention was made to make the movable baffle in Kidd like the baffle in Tillotson, in order to open and close the side discharge opening.

In regards to claim 2, the flow control baffles including a stationary baffle with a semicircular portion (Kidd baffles 105, 109).

In regards to claims 3-4 and 23, a threaded fastener (26) connects the first flow control baffle to the mower deck in Tillotson. A portion of the fastener is accessible at the upper surface of the top wall (Fig. 3).

In regards to claims 5-6, the fastener is received in a slot (28), which defines the range of motion of the baffle in Tillotson et al. (Fig. 2).

In regards to claim 7, the ear element is considered to be washer (32) in Tillotson.

In regards to claims 11 and 26-28, in the combination the first end of the movable baffle would be located proximate the centerline of the mower deck and the second end would be located proximate the side discharge chute. The baffle would have a length longer than the cutting blades.

In regards to claim 13, the movable baffle would have an elongated box-shape reinforcement structure since it has a rectangular cross section.

In regards to claim 12, the movable baffle in Tillotson is generally linear in form.

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3. Claims 8-9, 19 and 24 are rejected under 35 U.S.C. 103(a) as being unpatentable over the combination of Kidd in view of Tillotson et al. as described above and further in view of Foster 5,603,205.

The combination discloses the device described above, except that it uses a wing nut instead of a cam lock on the threaded fastener.

Like the combination, Foster discloses a grass-cutting machine with parts that are pivotable relative to each other. Unlike the combination, Foster discloses that a cam lock could be used as a suitable locking mechanism (Column 9, lines 52-57).

It would have been obvious to one having ordinary skill in the art at the time the invention was made to provide the fastener in the combination with a cam lock as taught in Foster as being a convention type of locking mechanism that is suitable for securing pivoting parts.

4. Claims 14-15, 18 and 22 are rejected under 35 U.S.C. 103(a) as being unpatentable over the combination of Kidd in view of Tillotson et al. as described above and further in view of Heisman et al. 5,499,495.

The combination discloses the device described in detail above. However, the combination fails to disclose providing indicia to provide information about the first flow control baffle's position.

Like the combination, Heisman et al. discloses a mower with parts that move to different orientations. Unlike the combination, Heisman et al. teaches providing indicia so that the operator knows the orientation of the parts (Column 5, lines 24-27).

It would have been obvious to one having ordinary skill in the art at the time the invention was made to provide the mower of the combination with indicia indicating the position of the first flow control baffle as taught in Heisman et al., in order to facilitate positioning of the baffle by the operator.

Response to Arguments

5. Applicant's arguments with respect to the claims have been considered but are moot in view of the new grounds of rejection.

Because of Applicant's amendments, the claims are now rejected as described above. As to the Declaration of Jeffrey Kallevig, the Schmidt reference is no longer being applied.

Conclusion

6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Meredith C. Petravick whose telephone number is 571-272-6995. The examiner can normally be reached on M-T 8:00 a.m. - 5:00 p.m..

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Thomas B. Will can be reached on 571-272-6998. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Meredith C Petravick
Primary Examiner
Art Unit 3671

August 15, 2005